

REMARKS

Reconsideration of the application and claims in light of the foregoing amendments and following remarks is respectfully requested.

Status of the Claims:

Claims 1-11 and 22-31 are currently pending. Claims 12-21 have been cancelled without prejudice or disclaimer of the subject matter contained therein. Claims 1-11 have been amended to place them in conventional U.S. form. Likewise, new claims 22-32 are generally directed to the subject matter of claims 12-21, respectively, but have been rewritten in conventional U.S. form. Claim 1 has also been amended to incorporate the subject matter of original claim 2, which has been amended to recite some of the subject matter of original claim 1. No new matter is added. Support for the amendments and new claims can be found, e.g., in original claims 1, 2 and 12-21, Figures 4 and 8 and paragraphs [0047]-[0049] and [0074]-[0076] of Applicant's U.S. Patent Application (Publication No. 2008/0035712).

Rejections under 35 U.S.C. § 103:

Claims 1-18, 20 and 21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,586,689 to D'Amato ("D'Amato") in view of U.S. Patent No. 1,520,870 to Koch ("Koch"). This rejection is respectfully traversed.

Independent claim 1 has been amended to recite the feature of "at least one peripheral recess that is open to the outside and formed in at least each of the overlap regions" and that "said peripheral recesses overlap[] one another at least in part upon connection of the overlap regions so as to form an at least one inspection opening." It is respectfully submitted that D'Amato and Koch, whether taken alone or in combination, fail to disclose at least these features of amended claim 1.

D'Amato describes a squeezable receptacle (1) formed from a blank having notches (20, 21) in a lower edge (25) and cut-out portions (10, 11) in left-hand and right-hand surface lines (6,

7). *See D'Amato, Figure 3 and col. 5, line 59 to col. 6, line 3.* To form the receptacle (1), the blank is folded symmetrically with respect to the center-line (23) such that the left-hand and right-hand surface lines (6, 7) extend past one another to create an overlapping area (5) and so that the inside edges (12, 13) of the cut-out portions (10,11) align. *See D'Amato, Figure 2 and col. 5, lines 13-25.* Accordingly, the cut-out portions, which are provided to remove excess material in the overlapping area and reduce the thickness thereof, do not overlap and do not form an inspection opening as called for in the present claims. Likewise, Koch does not disclose or suggest a blank having recesses which overlap to form an inspection opening as called for in the present claims. Rather, Koch describes a two-ply structure formed from a curved blank (9) including openings (13) which align as the blank (9) is wrapped around itself such that an inner ply and outer ply each contain a separate opening (13). *See Koch, Figure 2, col. 1, lines 34-42 and col. 1 line 52 to col. 2, line 58.* Because D'Amato and Koch, whether taken alone or in combination, fail to disclose or suggest an inspection opening formed by overlapping recesses, they can not render claim 1, or any of its dependent claims 2-11, obvious.

The Examiner contends that it would have been obvious to a person having ordinary skill in the art modify D'Amato so as to provide the inspection openings of Koch to the overlapping regions of D'Amato's blank. However, it is noted that such a combination does not arrive at the invention as presently claimed. As set forth above, amended claim 1 requires peripheral recesses formed into the profile of the blank to overlap and create an inspection opening; neither D'Amato or Koch disclose or suggest creating a inspection opening from overlapping recesses.

Further, since the openings of Koch are formed by punching material out of the blank, the application of such openings to the blank of D'Amato, as proposed by the Examiner, would result in an inspection opening that is weaker and more susceptible to leaks. *See paragraphs [0004] and [0005] of Applicant's printed publication.* Moreover, by creating an inspection opening from overlapping recesses, surprising results have been obtained in that, in addition to decreased material costs, the steps of punching and ejecting are eliminated while overall stability is improved. *See id.* This improved stability stems in part from the fact that the inspection opening formed by overlapping recesses is disposed in the connection edges, thereby creating a two-wall

structure where the walls are adhered to one another in the region of the opening (as opposed to Koch, in which the plies are not adhered to one another in the area of the openings).

Reconsideration and withdrawal of the rejections of claims 1-11 under 35 U.S.C. § 103(a) is respectfully requested in view of the foregoing amendments and arguments.

Claim 19 was rejected under 35 U.S.C. § 103(a) as being unpatentable over D'Amato in view Koch and in further view of U.S. Patent No. 6,378,763 to Nelson et al. This rejection is believed to be moot in view of the cancellation of claim 19.

New Claims:

New independent claim 22 recites a container having "at least one inspection opening formed by at least partially overlapping peripheral recesses in the overlap regions." As set forth in the preceding section, D'Amato and Koch, whether taken alone or in combination, fail to disclose or suggest an inspection opening formed by overlapping recesses. Accordingly, it is respectfully submitted that claim 22, and its dependent claims 23-31, are patentably distinct for at least this reason.

Information Disclosure Statement (IDS) of July 24, 2006:

It is noted that U.S. Patent No. 2,226,340 to Flood (Cite No. B1) submitted to the PTO in the July 24, 2006 IDS was not initialed by the Examiner as having been considered. It is respectfully requested that Examiner provide confirmation that Flood was considered or a reason why it was not considered in the next communication.

CONCLUSION

In view of the foregoing amendments and arguments, the subsisting claims in this application are believed to be in condition for allowance and such action is earnestly solicited.

If there are any other issues remaining which the Examiner believes could be resolved through either a Supplemental Response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned at the telephone number set forth below.

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Respectfully submitted,

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